

ORIGINAL

58822

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of ANTHONY
SILVA, JR., doing business as
TONY SILVA LIVESTOCK HAULING.

Case No. 6234

Anthony Silva, Jr., for self.J. Calvin Simpson, for the Commission staff.O P I N I O N

This proceeding, instituted by the Commission on its own motion, pertains to the operations, rates and practices of Anthony Silva, Jr., operating as a Radial Highway Common Carrier pursuant to Permit No. 30-3133, issued to him on October 30, 1956, which permit at all times hereinafter mentioned has been and now is in full force and effect.

A public hearing was held in Los Angeles, before Examiner Mark V. Chiesa, to determine whether or not said Anthony Silva, Jr., hereinafter sometimes referred to as respondent, violated, as charged in the order instituting investigation, Sections 3664, 3667, 3737, of the Public Utilities Code of this State by charging, demanding, collecting or receiving lesser compensation for the transportation of livestock than the applicable charges prescribed by Minimum Rate Tariff No. 3-A and by failing to adhere to the provisions of said tariff, particularly Items 60, 90, 130, 140, 150, 250 and 251 thereof, all as more specifically set forth in the said order instituting investigation.

Upon evidence of record the Commission finds:

That all applicable minimum rate orders were served upon respondent prior to the undercharges hereinafter noted.

That respondent assessed and collected charges less than the applicable minimum charges prescribed in Minimum Rate Tariff No. 3-A which resulted in undercharges as follows (from Exhibits Nos. 3, 4, 5, 6 and 7):

<u>Respondent's Freight Bill Number</u>	<u>Date</u>	<u>Amount of Undercharges</u>
7734	March 12, 1958	\$ 14.17
7745	" 16, "	13.64
7567	" 19, "	13.39
7571	" 23, "	26.43
101	" 30, "	14.07
254	April 2, "	21.39
308	" 6, "	12.06
260	" 9, "	11.51
203	" 9, "	11.56
261	" 13, "	11.70
205	" 13, "	9.34
206	" 15, "	50.62
115	" 21, "	12.25
272-273	" 22, "	28.95
325	" 23, "	23.00
331	" 28, "	31.37
211-212	" 29, "	108.58
213	May 2, "	69.02
174	" 4, "	9.00
120	" 7, "	4.50
122	" 8, "	3.78
130	" 15, "	36.36
222	" 18, "	7.34
185	" 20, "	66.90
223	" 20, "	16.38
136	" 25, "	4.50
190	" 26, "	2.76
365	" 28, "	18.00
196	" 31, "	39.60
7565	March 18, "	44.40
7749	" 5, "	58.69
7719	" 10, "	19.02
7720	" 9, "	54.79
7717	" 5, "	45.94
7741	" 13, "	47.34
7737	" 12, "	42.48

<u>Respondent's Freight Bill Number</u>	<u>Date</u>	<u>Amount of Undercharges</u>
7566	March 17, 1958	\$ 95.58
7573	" 23, "	29.10
7586	" 25, "	131.78
Not shown	" 31, "	29.97
" "	" 31, "	41.04
" "	" 31, "	28.35
" "	" 10, "	136.36
317	April 14, "	freight bill incomplete
306	" 4, "	" " "
305	" 4, "	" " "

That in the performance of various transportation services hereinabove set forth and as more particularly appearing in Exhibits Nos. 3, 4, 5, 6 and 7 of record herein, respondent has violated or failed to comply with the provisions of Minimum Rate Tariff No. 3-A in that he (1) failed in some instances to obtain a public weigh-master's certificate and to properly notify the Secretary of this Commission as provided in Item 130 and, in said cases, failed to base charges as provided in Items 150 and 140; (2) failed to execute a proper agreement for carriage and to issue a bill for freight charges in the manner provided in Items 250 and 251; (3) failed to rate shipments separately as provided by Item 60; and (4) failed to comply with Items 90, 250 and 251 in determining loss and damage claims.

The Commission having found facts as hereinabove set forth and concluding that respondent Anthony Silva, Jr., has violated Sections 3664, 3667 and 3737 of the Public Utilities Code, and the provisions and requirements of certain items of Minimum Rate Tariff No. 3-A as set forth in the preceding paragraph, makes its order as follows:

O R D E R

Public hearings having been held and the Commission basing its decision on the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

1. Respondent shall cease and desist from all future violations of the Commission's Minimum Rate Tariff No. 3-A.
2. Respondent shall place upon all freight bills issued by it sufficient information to permit the proper rating of said freight bills from information contained on the face thereof.
3. All operating authority of Anthony Silva, Jr., issued to him by this Commission be, and it is, suspended for a period of five consecutive days commencing at 12:01 a.m. on the second Monday after the effective date of this order.
4. Respondent shall examine his records for the period March 1, 1958, to the effective date of this order for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.
5. Respondent is hereby directed to take such action as may be necessary to collect undercharges, both those set forth in the foregoing opinion and those, if any, found during the examination ordered by paragraph 4 of this order.
6. Within ninety days after the effective date of this order, respondent shall report in writing to this Commission the undercharges, if any, found as a result of the examination ordered by paragraph 4 of this order and the results of its efforts to collect undercharges as required by paragraph 5 hereof. Thereafter, respondent shall submit, in writing, on the first Monday of each month, a report of undercharges remaining to be collected and the action taken to collect such charges, until such charges have been collected in full or until further order of this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made on respondent and this order shall be effective twenty days after the completion of such service.

Dated at San Francisco, California, this 28th day of July, 1959.

Ernest R. W. Rago
President

William J. ...

Theodore J. ...

Commissioners

Peter E. Mitchell
Commissioner C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.